

d.) **Remarks**

Claims 2, 3, 5, 6, and 24-49 were previously canceled, claims 81-93 are currently canceled, claims 1, 4, 7-23, 50-56, 67-74, 94, and 95 are herein amended, and new claims 96-129 added. All of the amendments are identical to the Amendments requested in the Response After Final, filed and dated September 3, 2003, with the following four (4) exceptions.

- (i) The text "a nucleotide sequence that deviates there from by one or more nonadjacent base pairs without effecting function" has been deleted from the previously amended claims.
- (ii) Claim 21 had been further amended to recite an "isolated" promoter.
- (iii) Claim 95 has been further amended to recite "an isolated" promoter "comprising" the indicated sequence, and the phrase consisting essentially of has been deleted.
- (iv) Claims 81-93 are herein canceled and previously added new claims 129-149 have not been reintroduced.

Thus, claims 1, 4, 7-23, 50-80 and 94-128 are presently pending. No new matter or new issues are introduced with these amendments and new claims.

**Remarks Regarding Examiner Interview of December 29<sup>th</sup>**

The undersigned very much appreciates the opportunity to meet with Examiner Fox on Monday, December 29, 2003. The undersigned respectfully confirms that the statements in the Interview Summary dated December 29, 2003, accurately reflect the substance of that interview.

**Conclusion**

The application is believed to be in condition for allowance and the prompt issuance of a Notice of Allowance is respectfully requested.

Applicant has added 33 new dependent claims with this Amendment (claims 96-128). Please charge the requisite extra claim fee of \$594 for the 33 additional dependent claims (33 x \$18 = \$594) to Deposit Account No. 03-1952.

If any issues remain, applicant respectfully requests that Examiner Fox contact the undersigned by telephone to discuss or arrange another interview.

If there are any additional fees due with the filing of this Amendment, including any fees for an extension of time or any fees not otherwise discussed, applicant respectfully requests that extension and also requests that any and all fees due be charged to Deposit Account No. 03-1952.

Respectfully submitted,  
Morrison & Foerster LLP

By

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Registration No. 36,902

Date: December 30, 2003

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